United Nations S/AC.49/2018/64

Security Council

Distr.: General
9 April 2018
English
Original: Spanish

Security Council Committee established pursuant to resolution 1718 (2006)

Note verbale dated 2 April 2018 from the Permanent Mission of Spain to the United Nations addressed to the Chair of the Committee

The Permanent Mission of Spain to the United Nations presents its compliments to the Chair of the Security Council Committee established pursuant to resolution 1718 (2006) and has the honour to transmit herewith its report on the implementation of resolution 2397 (2017) in accordance with paragraph 17 of that resolution (see annex).

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Annex to the note verbale dated 2 April 2018 from the Permanent Mission of Spain to the United Nations addressed to the Chair of the Committee

Report of Spain on the implementation of Security Council resolution 2397 (2017)

The Permanent Mission of Spain to the United Nations presents its compliments to the Chair of the Security Council Committee established pursuant to resolution 1718 (2006) and, pursuant to paragraph 17 of Security Council resolution 2397 (2017), has the honour to submit its report on the concrete measures taken by Spain to ensure effective implementation of the provisions of that resolution.

In response to the nuclear tests conducted by the Democratic People's Republic of Korea throughout 2017 and, in particular, following the ballistic missile launch on 28 November 2017, the Security Council adopted resolution 2397 (2017) imposing fresh international sanctions against that country and expanding the scope of the measures previously adopted.

The States members of the European Union have jointly implemented the restrictive measures against the Democratic People's Republic of Korea set forth in resolution 2397 (2017) through the adoption of the following common measures:[1]

(a) Council Implementing Decision (CFSP) 2018/16 of 8 January 2018 implementing Decision (CFSP) 2016/849 concerning restrictive measures against the Democratic People's Republic of Korea, which adds persons and an entity to the list of those subject to restrictive measures, namely entry bans and asset freezes;

(b) Council Implementing Regulation (EU) 2018/12 of 8 January 2018 implementing Regulation (EU) 2017/1509 concerning restrictive measures against the Democratic People's Republic of Korea;

(c) Council Decision (CFSP) 2018/293 of 26 February 2018 amending Decision (CFSP) 2016/849 concerning restrictive measures against the Democratic People's Republic of Korea;

(d) Council Regulation (EU) 2018/285 of 26 February 2018 amending Council Regulation (EU) 2017/1509 concerning restrictive measures against the Democratic People's Republic of Korea.

Council Decision (CFSP) 2018/293 reflects the commitment of the European Union to resolution 2397 (2017) by implementing the following measures:

- By Council Decision (CFSP) 2017/1860 of 16 October 2017, the European Union had already adopted a complete ban on the export of crude oil to the Democratic People's Republic of Korea, with the exception of humanitarian exports approved by the Committee in advance on a case-by-case basis. Council Decision (CFSP) 2018/293 makes it clear that the ban applies to the direct or indirect supply of crude oil, whether or not originating in the territories of the member States, to the Democratic People's Republic of Korea using pipelines, rail lines or vehicles;
- By Council Decision (CFSP) 2017/1860, the European Union had already introduced a complete ban on the export of refined petroleum products, with the exception of humanitarian exports that met the conditions set out in paragraph 14 of resolution 2375 (2017) and had been authorized by the competent authority

[1] All common measures are published in the *Official Journal of the European Union*.

of a member State. Council Decision (CFSP) 2018/293 stipulates that the amount of refined petroleum products exported, using pipelines, rail lines or other vehicles, may not exceed 500,000 barrels per year;

- Prohibition on importing food and agricultural products, machinery, electrical equipment, earth and stone (including magnesite and magnesia), wood and vessels;
- Prohibition on acquiring fishing rights from the Democratic People's Republic of Korea;
- Prohibition on exporting all industrial machinery, transportation vehicles, iron, steel and other metals, unless it has been determined by a member State that the provision of spare parts is needed to maintain the safe operation of passenger aircraft of the Democratic People's Republic of Korea;
- Obligation to repatriate to the Democratic People's Republic of Korea all nationals of that country earning income in that member State's jurisdiction and all Democratic People's Republic of Korea Government safety oversight attachés monitoring Democratic People's Republic of Korea workers abroad immediately, and no later than 21 December 2019, with some exceptions subject to applicable national and international law;
- Obligation of member States to seize, inspect and impound any vessel in their ports, and authority of member States to seize, inspect and impound any vessel subject to their jurisdiction in their territorial waters where there are reasonable grounds to believe that the vessel has been involved in activities, or the transport of items, prohibited under the Security Council resolutions concerning the Democratic People's Republic of Korea. Under certain conditions, the provisions concerning the impounding of vessels shall not apply;
- Obligation to cooperate as promptly as possible with another State which has information that leads it to suspect that the Democratic People's Republic of Korea is attempting to illicitly export cargo where that State requests additional maritime and shipping information;
- Prohibition on providing insurance or reinsurance services to vessels identified as being involved in activities, or the transport of items, prohibited under the Security Council resolutions concerning the Democratic People's Republic of Korea, unless the Committee determines, on a case-by-case basis, that the vessel is engaged in activities exclusively for livelihood or humanitarian purposes;
- Obligation to deregister any vessel where there are reasonable grounds to believe that the vessel has been involved in activities, or the transport of items, prohibited under the Security Council resolutions concerning the Democratic People's Republic of Korea;
- Prohibition on providing classification services to vessels identified as being involved in activities, or the transport of items, prohibited under the Security Council resolutions concerning the Democratic People's Republic of Korea, unless approval has been granted in advance by the Committee on a case-by-case basis;
- Prohibition on registering any vessel that has been deregistered by another State, except as approved in advance by the sanctions comm ttee on a case-by-case basis;
- Prohibition on exporting new or used vessels covered by Council Decision (CFSP) 2017/345;

- Obligation to seize and dispose of items the export of which is prohibited under resolution 2397 (2017);
- Prohibition on satisfying claims connected with any contract or transaction the performance of which has been affected by the measures imposed pursuant to resolution 2397 (2017).

Spain also has comprehensive national legislation in various areas which are closely related to some of the matters covered by resolution 2397 (2017), including non-proliferation, international trade in certain types of goods, entry and travel bans and financial measures; these laws complement the above-mentioned legal instruments adopted within the European Union.

Measures adopted for the effective implementation of the provisions of resolution 2397 (2017)

Measures related to the embargo on conventional weapons and weapons of mass destruction, as well as on related materials, equipment, goods and technology

Spain has its own legislation on the control of foreign trade in defence-related and dual-use materials, which subjects such transactions to strict prior controls and, where the export of such materials is not prohibited, the requirement to obtain the relevant administrative licence from the competent national licensing authority.

The applicable national legislation is Act No. 53/2007 of 28 December 2007 on the control of foreign trade in defence-related and dual-use materials and Royal Decree No. 679/2014 of 1 August 2014 approving the Regulations on the control of foreign trade in defence-related material, other material and dual-use items and technology. However, pursuant to the above-mentioned legislation, there is currently no trade in weapons or related goods between Spain and the Democratic People's Republic of Korea.

The above legislation applies to the ban on the direct or indirect supply, sale or transfer to the Democratic People's Republic of Korea of nuclear-related, ballistic missile-related or other weapons of mass destruction-related items, materials, equipment, goods or technology.

Council Regulation (EC) No. 428/2009 of 5 May 2009, setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items is also noteworthy. This Regulation gives member States the power to prevent the brokering of any goods or materials that could be used in connection with a weapons-of-mass-destruction programme in their destination country, or of any dual-use material with possible military use in a State subject to an arms embargo.

Trade restrictions

With regard to defence-related and dual-use materials, no operations requiring authorization by the Spanish authorities have been conducted since the sanctions were imposed.

Applications for licences for the import or export of goods to or from the Democratic People's Republic of Korea are examined on a case-by-case basis by the competent national authority, which shall grant the required licences only once it has been verified that the conditions established by the relevant national, international and European Union provisions have been met.

In the case of exports to countries considered sensitive or subject to an embargo, such as the Democratic People's Republic of Korea, a strengthened and exhaustive examination is conducted before any licence is granted. Spain has an alert system in place that was established by the Customs and Excise Department, which is the

department responsible for identifying imports from and exports to countries subject to restrictive measures and stopping the customs clearance of the goods concerned. These filters were established for any goods originating in or headed to the Democratic People's Republic of Korea. The export of such goods without the required licence constitutes an offence in accordance with the criminal legislation in force, in particular Organic Act No. 12/1995 of 12 December 1995 on countering smuggling.

Exporting certain luxury goods, the complete list of which is contained in annex VIII of Council Regulation (EU) 2017/1509 of 30 August 2017, constitutes a criminal offence under current Spanish legislation and is punishable by law.

Entry bans and travel restrictions

By Council Implementing Decision (CFSP) 2017/1459 of 10 August 2017 and Commission Implementing Regulation (EU) 2017/1457 of 10 August 2017, the European Union has incorporated the persons and entities subject to entry and travel bans added to the list by resolution 2397 (2017).

Resolution 2397 (2017) and Council Regulation (EC) No. 539/2001 of 15 March 2001, which lists the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement, form the basis for denying entry into the territory of the European Union.

In this regard, Spanish policy on foreign nationals is governed by Organic Act No. 4/2000 of 11 January 2000 on the rights and freedoms of aliens in Spain and their social integration.

Transport restrictions

The entry of vessels into Spanish ports open to national and international maritime navigation is subject to the rules set out in Act No. 14/2014 of 24 July 2014 on maritime navigation, and to the other legislation pertaining to ports, security, customs, aliens and immigration, police, health, the environment and fisheries, including the established operational conditions. Within the scope of its competences, the maritime administration shall authorize or refuse entry into waters over which Spain has sovereignty, sovereign rights or jurisdiction, and the port administration shall authorize the entry into ports in the national territory, meaning that authorization granted by the port administration to enter port shall always be subject to compliance with legislation and other related rules.

There is currently no direct air link between Spain and the Democratic People's Republic of Korea and there are no plans to operate commercial flights between the two countries. However, Spain has a licensing department and any future requests relating to flights to or from the Democratic People's Republic of Korea will be subject to the relevant legislation.

Financial measures and asset freezes

Spain has specific legislation on countering money-laundering and international terrorist financing. Article 42 of Act No. 10/2010 of 28 April 2010 on preventing money-laundering and terrorist financing explicitly mentions the freezing of funds in accordance with international sanctions and is fully applicable to the Democratic People's Republic of Korea.

Measures taken to prohibit the establishment of and participation in companies of the Democratic People's Republic of Korea in certain sectors

The extension of sanctions against the Democratic People's Republic of Korea provides for a ban on the establishment of joint venture companies and the acquisition of any equity, through the purchase of shares or other assets, in companies involved in nuclear programmes or the production of ballistic missiles or other weapons of mass destruction, as well as the conventional arms, metallurgical, mining, chemical, refining and aerospace industries.

In addition, the prohibition includes financing or financial assistance and the provision of direct or indirect investment services related to the above activities.

Spain has specific national legislation on Spanish investments abroad and foreign investments in Spain, namely Royal Decree No. 664/1999 of 23 April 1999 on foreign investments and Act No. 19/2003 of 4 July 2003 on the legal framework for capital transfers and financial transactions abroad and certain measures to prevent money-laundering, which complement Act No. 10/2010 of 28 April 2010 on the prevention of money-laundering and terrorist financing.